

H-3109-1 - LEASING UNDER SPECIAL ACTS

Regional Solicitor's Memorandum (BLM.RM.1144), Dated
April 11, 1990, "Assignability of Oil and Gas Leases Issued
Pursuant to the Act of May 21, 1930, 30 U.S.C. 301-306 (1982)"



United States Department of the Interior

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April 11, 1990

BLM.RM.1144

Memorandum

To: State Director, Wyoming State Office, Bureau of Land
Management

From: Regional Solicitor, Rocky Mountain Region

Subject: Assignability of Oil and Gas Leases Issued Pursuant
to the Act of May 21, 1930, 30 U.S.C. §§ 301-306
(1982)

By your memorandum of March 8, 1990, you ask whether oil and gas leases issued by the Department pursuant to the Act of May 21, 1930, 30 U.S.C. §§ 301-306 (1982), may be assigned to one not originally issued the lease.

The Act of May 21, 1930, 30 U.S.C. §§ 301-306 (1982) was enacted by Congress to allow the leasing of rights-of-way, such as for railroads, where the owner of the right-of-way had complete control over access to the oil and gas deposits. For that reason, Congress limited the category of persons to whom a lease could be issued to (1) the owner of the right-of-way or his assigns and (2) the adjacent landowner, who could offset any drainage. See 30 U.S.C. §§ 301 and 303. Significantly, Congress also provided that any rights conferred by the Act could also be assigned.

The right conferred by this chapter, may, subject to the approval of the Secretary of the Interior, be assigned or sublet by the owner thereof to any corporation, firm, association or individual.


30 U.S.C. § 302 (1982).

Because of rules of statutory construction, this section necessarily means that leases issued under the Act may be assigned to one not originally issued the lease. First, under the "plain meaning" rule of construction, the plain meaning of the statute is clear and must be followed. That is, leases may be assigned without restriction, subject only to the assignee meeting the normal requirements for holding an oil and gas lease. Second, another rule of statutory construction requires that all parts of a statute be given meaning and that no part be considered excess verbiage, if possible. Here, if the right of assignment granted in 30 U.S.C. § 302 is confined

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only to the first assignee of the owner of the right-of-way, then 30 U.S.C. § 302 is nothing more than a redundancy, because 30 U.S.C. § 301 already allows issuance of the lease to either the owner of the right-of-way or to his assignees.

In sum, leases issued under the Act of May 21, 1930, 30 U.S.C. §§ 301-306 (1982), may be assigned subject only to the normal qualifications for oil and gas lessees.


Lyle K. Rising
For the Regional Solicitor
Rocky Mountain Region